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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNWIRED PLANET LLC, a Nevada limited
liability company,

Plaintiff,

v.

APPLE INC., a California corporation,
Defendant.

Case No.: 3:12-CV-00505-RCJ-VPC

**JOINT RULE 26(f) REPORT,
DISCOVERY PLAN AND
PROPOSED SCHEDULING
ORDER**

**(SPECIAL SCHEDULING REVIEW
REQUESTED)**

Pursuant to Rule 26(f) of the Federal Rules of Civil Procedure and Local Rules 26-1(d)
and (e), Plaintiff UNWIRED PLANET LLC ("Plaintiff"), by their attorneys, and Defendant

APPLE INC., (“Defendant”), by their attorneys, submit the following Joint Rule 26(f) Report and Discovery Plan and Proposed Scheduling Order (“Discovery Plan”). This is a complex patent case in which Plaintiff asserts ten patents (Dkt. #1), Defendant asserts non-infringement and numerous invalidity and unenforceability defenses and counterclaims (Dkt. # 29) and the parties therefore request a special scheduling review pursuant to LR 26-1.

A. Fed. R. Civ. P. 26(f) Meeting

The following persons participated in a Rule 26(f) conference on December 28, 2012 by telephone conference:

On behalf of the Unwired Planet LLC: Michael D. Rounds and Pierre Hubert.

On behalf of Apple Inc.: Jonathan W. Fountain, H. Mark Lyon, Y. Ernest Shin, Stuart Rosenberg and Brooke Wallace.

B. Initial Disclosures

The parties will serve their initial disclosures pursuant to Fed. R. Civ. P. 26(a)(1) on February 1, 2013.

C. Local Rule 26-1(e)(1) – Discovery Cut-Off Date

The parties jointly propose that the fact discovery cut-off date shall be 60 days after the entry of a claim construction order as to all asserted patents in this matter. This will allow the parties to complete any necessary fact discovery after the entry of the claim construction order.

D. Local Rule 26(e)(1) – Amendment to Pleadings

The parties jointly propose that the last day for filing motions to amend pleadings or to add parties shall be September 1, 2013.

E. The Parties’ Contentions

The parties jointly propose the following dates for exchange of the contentions called for by Local Rules 16.1-6 – 16.1-10:

EVENT	DEADLINE
Plaintiffs to serve disclosure of asserted claims and infringement contentions, and accompanying documents, pursuant to Local Rules 16.1-6 – 16.1-7	February 15, 2013

EVENT	DEADLINE
Defendants to serve noninfringement, invalidity and unenforceability contentions, and accompanying documents, pursuant to Local Rules 16.1-8 – 16.1-9	May 2, 2013
Plaintiff to serve response to Defendants' noninfringement, invalidity and unenforceability contentions, and accompanying documents, pursuant to Local Rules 16.1-10	June 17, 2013

F. Claim Construction

The parties jointly propose the following dates for claim construction related events:

EVENT	DEADLINE
Exchange of Proposed Terms for Construction (LR 16.1-13)	July 17, 2013
Exchange of Proposed Claim Constructions and Supporting Intrinsic and Extrinsic Evidence (LR 16.1-14)	30 days after exchange of proposed terms
Parties File Joint Claim Construction and Prehearing Statement (LR 16.1-15)	15 days after exchange of proposed terms
Parties Submit <i>Markman</i> Tutorials	35 days after Joint Claim Construction and Prehearing Statement is filed
Opening Claim Construction Briefs from all Parties	45 days after Joint Claim Construction and Prehearing Statement is filed
Responsive Claim Construction Briefs from all Parties	30 days after Opening Claim Construction Brief
Claim Construction Hearing (LR 16.1-17)	Court's convenience (2 days requested)

Opening claim construction briefs for all parties shall not exceed 125 pages, and responsive claim construction briefs for all parties shall not exceed 75 pages. The parties reserve the right, however, to propose that these page limitations be amended by the Court depending on the number of claims that remain at issue at the time of briefing. The parties reserve the right to meet and confer at a later time for the purpose of determining whether a *Markman* tutorial

1 hearing will be necessary in addition to the time the parties have allocated for the Markman
2 hearing.

3 **G. Local Rule 26-1(e)(3) – Expert Disclosures**

4 The parties jointly propose the following dates for expert disclosures:

EVENT	DEADLINE
Opening expert reports on issues for which the serving party has the burden of proof	75 days after entry of <i>Markman</i> Order
Rebuttal expert reports, on issues for which the other party has the burden of proof	45 days after service of opening expert reports
Expert discovery completed	45 days after service of rebuttal expert reports

11 **H. Local Rule 26-1(e)(4) – Dispositive Motions**

12 The parties jointly propose that any dispositive motions or Daubert motions concerning
13 the proposed testimony of any expert must be filed within 45 days after the completion of expert
14 discovery. Within 10 days after the completion of expert discovery, the parties will meet and
15 confer and/or seek a telephonic status conference with the Court to determine any appropriate
16 limit on the number and length of summary judgment motion(s).

17 **I. Local Rule 26-1(e)(5) – Pretrial Order**

18 The parties jointly propose that the deadline for filing the joint pretrial order is 30 days
19 after the Court's decision on dispositive motion(s). Pursuant to LR 26-1(e)(6), the disclosures
20 required by Fed. R. Civ. P. 26(a)(3) and any objections thereto shall be included in the pretrial
21 order.

22 **J. Settlement Conferences**

23 The parties jointly propose the following dates for the settlement conferences called for
24 by Local Rule 16.1-19:

EVENT	DEADLINE
Pre-Claim Construction Settlement Conference	July 12, 2013
Post-Claim Construction Settlement Conference	30 days after entry of the claim construction order

EVENT	DEADLINE
Pre-trial Settlement Conference	30 days after filing of the Pre-Trial Order

K. Additional Provisions

a. Interim Status Report

The parties jointly propose that the parties will file a joint Interim Status Report pursuant to LR 26-3 thirty (30) days before the discovery cut off.

b. Motions *in Limine*

The parties jointly propose that any motions *in limine* must be filed 30 days prior to trial. The parties further propose that any oppositions to motions *in limine* must be filed 14 days after the motions *in limine* are filed. There is a limit of 10 motions *in limine* for each party.

c. Privilege Logs

The parties jointly agree that privileged documents created after the filing of the original Complaint in this action may be withheld without being identified to a requesting party, unless the requesting party makes a particular request for post-Complaint privileged documents, with request may be complied to or objected to, subject to review by the Court if necessary.

d. Disclosure or Discovery of Electronically-Stored Information

The parties will produce electronically-stored information according to a modified version of the Federal Circuit's Model Order Regarding E-Discovery In Patent Cases ("Model Order"). The parties are currently meeting and conferring on the modifications and anticipate filing the document within the next two weeks.

e. E-Mail Service

The parties have agreed that, to the extent possible in light of the volume of the submission, all court filings, to the extent not served through ECF (e.g., filings under seal), will be served via e-mail, and such service shall constitute proper service under Fed. R. Civ. P. 5(b)(2)(E). The parties have further agreed that each party may serve discovery, in lieu of other service methods, by e-mail under Fed. R. Civ. P. 5(b)(2)(E). The parties have further agreed that all service of written discovery and/or responses shall take place at or before 7:00 pm Pacific

1 time. If transmission of voluminous materials as an e-mail attachment is impractical, those
2 materials shall be sent via an FTP service or by overnight delivery. If service is by overnight
3 delivery, the serving party must use a service having the ability to “track” deliveries and verify
4 receipt.

5 f. **Interrogatories**

6 The parties agree to a maximum of 60 interrogatories per side, including contention
7 interrogatories.

8 g. **Depositions**

9 **Plaintiff’s Proposal:** Plaintiff proposes that each side is limited to a total of 165 hours of
10 fact witness depositions, inclusive of Fed. R. Civ. P. 30(b)(6) depositions, and exclusive of non-
11 party fact witnesses and expert witnesses.

12 **Defendant’s Proposal:** Defendant proposes that each side is limited to a total of 100
13 hours of fact witness depositions, inclusive of Fed. R. Civ. P. 30(b)(6) depositions, and exclusive
14 of non-party fact witnesses and expert witnesses.

15 **Joint Proposal:** The parties agree that, other than Fed. R. Civ. P. 30(b)(6) and expert
16 witness depositions, each deposition of a fact witness is limited to a maximum of seven (7) hours
17 unless extended by agreement of the parties. The length of time for Fed. R. Civ. P. 30(b)(6)
18 witnesses may vary depending on the number of topics for which a witness is designated. No
19 personal deposition of a Fed. R. Civ. P. 30(b)(6) designee may duplicate the Fed. R. Civ. P.
20 30(b)(6) topics for that designee. The parties further agree to identify all corporate
21 representatives designated pursuant to Fed. R. Civ. P. 30(b)(6) at least five (5) business days
22 prior to the deposition. The parties agree that this case is at a preliminary stage and reserve the
23 right to seek modifications or amendments to this paragraph as discovery progresses.


24 h. **Third-Party Subpoenas**

25 Any party that serves a subpoena upon a third-party will simultaneously serve a copy of
26 such subpoena upon all parties. Moreover, any party that receives documents and/or
27 correspondence from a third-party pursuant to a subpoena will, as soon as possible, provide those
28 documents and/or correspondence to each other party.

**ATTORNEYS FOR PLAINTIFF
UNWIRED PLANET LLC**

- and -

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**ATTORNEYS FOR DEFENDANT
APPLE INC.**

IT IS SO ORDERED:

Dated: _____, 2013

Hon. Valerie P. Cooke
United States Magistrate Judge